

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Tarry Pythagoras Lennon, #170098,)
Petitioner,) Civil Action No. 6:07-1408-RBH-WMC
vs.)
Richard Bazzle, Warden, Perry)
Correctional Institution,)
Respondent.)

)

REPORT OF MAGISTRATE JUDGE

The petitioner brought this action seeking relief pursuant to Title 28, United States Code, Section 2254. On September 21, 2007, the respondent filed a motion for summary judgment. By order of this court filed September 24, 2007, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the petitioner elected not to respond to the motion.

As the petitioner is proceeding *pro se*, the court filed a second order on November 21, 2007, giving the petitioner through December 19, 2007, to file his response to the motion for summary judgment. The petitioner was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The petitioner elected not to respond.

Based on the foregoing, it appears the petitioner no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989), *cert. denied*, 493 U.S. 1084 (1990).

December 21, 2007
Greenville, South Carolina

s/William M. Catoe
United States Magistrate Judge